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07-CV-05055-CMP

Received From
SEATTLE
FEB 08 2007

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THE CITY OF TACOMA, a municipal
Corporation of the State of Washington,

Plaintiff,

CLARENDON AMERICA INSURANCE
COMPANY, a Delaware Corporation; and
SPECIALTY SURPLUS INSURANCE
COMPANY, an Illinois Corporation,

Defendants.

NO. C 07-5055 FDB

NOTICE OF REMOVAL

Clerk's Action Required

**DEFENDANT SPECIALTY'S NOTICE OF
REMOVAL PURSUANT TO 28 U.S.C. § 1441**

NOW COMES Defendant, SPECIALTY SURPLUS INSURANCE COMPANY ("Specialty"), by and through its attorneys, and pursuant to 28 U.S.C. §§ 1441(a) and 1446, and respectfully submits this Notice of Removal of the action styled *The City of Tacoma v. Clarendon America Insurance Company, and Specialty Surplus Insurance Company*, Cause No. 07-0204167-8, from the Superior Court of the State of Washington, in and for Pierce

{5133154.DOC}
NOTICE OF REMOVAL - 1

ORIGINAL

LEE SMART COOK MARTIN & PATTERSON

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NO TISSUE SEA 7/24

1 County, to the United States District Court for the Western District of Washington, and in
2 support thereof states as follows:

3 1. A civil action brought in a state court of which the district courts of the United
4 States have original jurisdiction may be removed by the defendant to the district court of the
5 United States for the district and division embracing the place where such action is pending. 28
6 U.S.C. § 1441(a).

7 2. 28 U.S.C. § 1446 requires that a defendant desirous of removing a civil action
8 file a notice of removal together with a copy of all process, pleadings and orders served upon
9 such defendant, within 30 days. See 28 U.S.C. § 1446(a) and (b).

10 3. On January 8, 2007, the Complaint was served upon Specialty, through service
11 upon the Insurance Commissioner of the State of Washington. A copy of the Complaint and all
12 other papers served upon Specialty are attached as Group Exhibit A.

13 4. The grounds for the instant petition are based upon the original jurisdiction of
14 the U. S. District Court, pursuant to 28 U.S.C. § 1332, which allows the District Court to hear
15 matters based upon the diversity of citizenship of the parties.

16 5. Plaintiff City of Tacoma is a municipal corporation located in the State of
17 Washington.

18 6. Defendant Specialty is a corporation organized under the laws of the State of
19 Illinois, with its principal place of business in the City of Scottsdale, in the State of Arizona.

20 7. Defendant Clarendon America Insurance Company is a corporation organized
21 under the laws of the State of Delaware, with its principal place of business in New York City,
22 in the State of New York. The Complaint seeks recovery in an amount in excess of \$75,000.

1 8. Defendant Clarendon America Insurance Company does not object to the
2 removal of this matter from state court to District Court. *See* Declaration of Bryan G.
3 Schumann, filed herewith.

4 9. WHEREFORE, the Defendant, SPECIALTY SURPLUS INSURANCE
5 COMPANY, respectfully submits this Notice of Removal and notifies this Court of its removal
6 of this cause from the Superior Court of the State of Washington, in and for Pierce
7 County, pursuant to the provisions of 28 U.S.C. §§ 1441(a) and 1446.

9 DATED this 6th day of February, 2007.

10 LEE SMART COOK MARTIN &
11 PATTERSON, P.S., INC.

13 By: _____ /s/ Joel E. Wright _____
14 Joel E. Wright, WSBA No. 8625
15 jw@leesmart.com
16 William R. Kiendl, WSBA No. 23169
17 wrk@leesmart.com
18 Of Attorneys for Defendant
19 Specialty Surplus Insurance Company

1 **DECLARATION OF SERVICE**

2 The undersigned declares under penalty of perjury under the laws of the State of
3 Washington that on February 6, 2007, I filed the foregoing pleading with the Clerk of the
4 Court, which office will send notification of such filing using the CM/ECF system to the
5 following:

6 M. Joseph Sloan Jr.
7 Office of the City Attorney
8 Administration Building
9 3628 South 35th Street
P.O. Box 11007
Tacoma WA 98411
joseph.sloan@cityoftacoma.org

10 LEE, SMART, COOK, MARTIN
11 & PATTERSON, P.S., INC.

12
13 By: /s/ William R. Kiendl
14 William R. Kiendl, WSBA No. 23169
15 wrk@leesmart.com
 Of Attorneys for Defendant
 Specialty Surplus Insurance Company